



# *U.S. Department of Energy*

## *National Energy Technology Laboratory*



To: All Prospective Offerors

SUBJECT: Request For Proposal (RFP) No. DE-RP26-04NT41817 for Research and Development Support Services for the National Energy Technology Laboratory

### Executive Summary Letter

This letter transmits Request for Proposal (RFP) No. DE-RP26-04NT41817 entitled "Research and Development Support (RDS) Services for the National Energy Technology Laboratory (NETL)". The U. S. Department of Energy (DOE), NETL is soliciting for offers to provide Research and Development Support Services. The Government requirements are delineated in the Statement of Work contained in Section J, Attachment A of the RFP.

The purpose of this Executive Summary Letter is to highlight salient elements of the RFP. This letter is not an integral part of the RFP which is a self-contained document. In the event of any conflict between the contents of this Executive Summary Letter and that of the RFP, the RFP language will prevail. Offerors are cautioned to examine carefully the entire RFP, including the draft contract therein, and the requirements contained therein.

This RFP is being disseminated and proposals are being received electronically through the Industry Interactive Procurement System (IIPS) located at the following URL: <http://e-center.doe.gov>. IIPS provides the medium for disseminating solicitations, receiving proposals, and evaluating proposals in a paperless environment. All proposals in response to this solicitation are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract and intend to submit proposals via the IIPS system must register and receive confirmation that they registered prior to being able to submit an application on the IIPS System. An IIPS "User Guide for Contractors" can be obtained by going to the IIPS Homepage at <http://e-center.doe.gov> and then clicking on the "Help" button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at [IIPS\\_HelpDesk@e-center.doe.gov](mailto:IIPS_HelpDesk@e-center.doe.gov) or call the Help Desk at (800) 683-0751.

The DOE anticipates a single award of a Cost-Plus-Award Fee contract; but the DOE reserves the right to award the contract type and number deemed in its best interest. It is anticipated that the resulting contract will be issued with a three year base period and one two-year option period.

Proposals must be submitted in accordance with the requirements set forth in Section L of the RFP. Each proposal will be objectively reviewed on its own merit against the evaluation criteria set forth in Section M of the RFP. Proposal Volumes I, II, and III must be received through IIPS not later than **8:00 p.m.** local prevailing time on **April 13, 2004**. Proposal Volume IV must be received through IIPS not later than **8:00 p.m.** local prevailing time on **April 27, 2004**.

Proposals must authorize a period for acceptance by the Government of not less than one hundred eighty (180) calendar days from the date specified for receipt of proposals. Further, you are cautioned that late proposals, modifications, and withdrawals will be treated in accordance with the article in Section L entitled "Instructions to Offerors - Competitive Acquisition."

All requests for explanation or interpretation of any part of the solicitation must be submitted through the "Submit Question" feature in IIPS. Once a question is submitted, it can not be edited. Questions submitted as well as the Government's response to these questions may be viewed by using the "View Questions" feature in IIPS. The Government reserves the right not to respond to questions submitted by telephone, E-mail or in person at any time.

The only method by which any term of this solicitation may be amended is by an express, formal amendment generated by the issuing office and disseminated through IIPS. No other communication, whether written or oral, will amend or supersede the terms of this solicitation. Offerors are encouraged to periodically check IIPS to ascertain the status of any amendments and review the answers to questions as hard copies will not be distributed.

In accordance with FAR Part 4.11, Offerors are required to register with the Government's Central Contractor Registration (CCR) database. This requirement applies to new awards and modifications to existing awards from all Federal Agencies. The CCR database can be accessed at [www.ccr.gov](http://www.ccr.gov).

The Federal Technology Transfer Act (Pub. L. 99-502) (FTTA) authorizes NETL to enter into Cooperative Research and Development Agreements (CRADAs) for the purpose of collaborating with non-Federal entities in the development of mission-related technologies. As described in the Statement of Work contained in Section J, Attachment A of the RFP, the contractor selected under this award will be expected to provide research in support of the NETL's CRADA activities. Under the FTTA, the CRADA collaborating party is entitled to receive certain rights under a CRADA, including the option for an exclusive license to any CRADA invention made by a Government employee. However, under the Bayh-Dole Act (Pub. L. 96-517), domestic nonprofit and small business contractors have the option to retain rights in their inventions in order to facilitate the commercialization of the results of federally funded research. The situation presents a conflict between the general policies of the Bayh-Dole Act and the specific directives of the FTTA. Allowing a support contractor to work under a CRADA in such circumstances might be a negative factor or disincentive to the participation by private parties in a CRADA because they would not be assured of receiving rights in all CRADA inventions as mandated by the FTTA. Thus NETL believes that there is a need to limit the rights of certain contractors in their inventions when they are performing research for the Government under a CRADA with a collaborating party.

The Bayh-Dole Act provides that the option for domestic nonprofit and small business contractors to retain rights in their inventions may be limited if an exceptional circumstances determination is made by the funding agency under 37 CFR 401.3(a)(2). Because the contract that NETL intends to enter into as a result of this solicitation will not be entered into for securing research expertise of a particular company or individual but rather to provide general support to the operation of the laboratory, NETL intends to pursue an exceptional circumstance determination for this contract. The determination will be limited to CRADA subject inventions made on the NETL site by employees of a Bayh-Dole contractor or subcontractor. The rights would be of the same scope and terms the collaborating party would receive in an invention made by a Government employee under a CRADA, which typically is an option for an exclusive license. Further, NETL intends that the determination will provide that, with regard to any resulting licensing income, the Bayh-Dole contractor and its employee(s) will be treated the same as DOE (i.e., the licensee will be required to make royalty payments to the contractor, who will, in turn, be required to share royalties with their employee(s) as required under Bayh-Dole). The contractor may appeal such a determination.

For your information, an electronic reading room has been established as part of NETL's strategy to provide information that may benefit potential offerors in preparing their proposals. The information is provided to assist the reader in gaining an enhanced understanding of the requirement. The reading room may be accessed at <http://www.netl.doe.gov/business/sollicit/ssc2003/index.html>.

It is also recommended that all prospective offerors download a copy of the DOE "Lobbying Brochure"([http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/WebAttachments/LOBBYING2/\\$File/LOBBYING2.doc](http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/WebAttachments/LOBBYING2/$File/LOBBYING2.doc)) which provides a summary of the statutory and regulatory restrictions regarding lobbying activities for Federal contractors and recipients.

Sincerely,

Original Signed by

[ ]  
Contracting Officer  
Acquisition and Assistance Division

Enclosure